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DEC 16 2009

Board of Vocational Nursing
and Psychiatric Technicians

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10 **BEFORE THE**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. PT-2006-1569

15 **DAVID REED FIELDS**
1828 W. Monache
16 Porterville, California, 93257

FIRST AMENDED ACCUSATION

17 Psychiatric Technician License No. PT 29204

18 Respondent.

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20 Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this First Amended Accusation solely in her official
23 capacity as the Executive Officer of the Bureau of Vocational Nursing and Psychiatric
24 Technicians ("Bureau"), Department of Consumer Affairs.

25 **License History**

26 2. On or about October 12, 1994, the Board issued Psychiatric Technician
27 License Number PT 29204 ("license") to David Reed Fields ("Respondent"). The license will
28 expire on May 31, 2010, unless renewed.

JURISDICTION

3. Section 4520 of the Business and Professions Code ("Code") provides, in pertinent part, that the Bureau may discipline any licensed psychiatric technician for any reason provided in Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code § 4500, et. seq.)

4. Code section 477, subdivision (a), provides that a "[b]oard" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

5. Code section 101.1, subdivision (b)(1), provides that "[i]n the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer."

6. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

7. Code section 4521 states, in pertinent part:

The board may suspend or revoke a license issued under this chapter, for any of the following reasons:

(a) Unprofessional conduct, which includes but is not limited to any of the following:

(4) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(f) Conviction of any offense substantially related to the qualifications, functions, and duties of a psychiatric technician, in which event the record of the conviction shall be conclusive evidence of the conviction. The board may inquire into the

1 circumstances surrounding the commission of the crime in order to
2 fix the degree of discipline.

3 **COST RECOVERY**

4 8. Code section 125.3 provides, in pertinent part, that a Bureau may request
5 the administrative law judge to direct a licensee found to have committed a violation or
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
7 and enforcement of the case.

8 9. **DRUG**

9 "Marijuana," also known as "Cannabis," is a Schedule I controlled substance as
10 designated by Health and Safety Code section 11054, subdivision (d)(13).

11 **FIRST AMENDED CAUSE FOR DISCIPLINE**

12 **(Self-Administered a Controlled Substance)**

13 10. Respondent is subject to disciplinary action under Code section 4521,
14 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 4521,
15 subdivision (a)(4), in that on December 18, 2006, while employed as a psychiatric technician
16 with the Department of Developmental Services, Porterville Development Center in Porterville,
17 California, Respondent self-administered Marijuana, a Schedule I controlled substance.

18 **SECOND AMENDED CAUSE FOR DISCIPLINE**

19 **(Criminal Conviction)**

20 11. Respondent is subject to disciplinary action under Code section 4521,
21 subdivision (f), in that on or about May 27, 2008, in the Superior Court of California, County of
22 Tulare, in the case entitled, *People of the State of California v. David Reed Fields* (Super. Ct
23 Tulare County, 2008, Case No. PCM197398), Respondent was convicted by the court on his plea
24 of nolo contendere of violating Vehicle Code section 23152, subdivision (a) (Driving Under the
25 Influence of Alcohol or Drugs with Priors), a misdemeanor. Such crime is substantially related
26 to the qualifications, functions, and duties of a licensed psychiatric technician.

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DISCIPLINE CONSIDERATIONS

12. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about November 8, 2006, in a prior disciplinary action entitled, In the Matter of the Citation Against: David Fields before the Board of Vocational Nursing and Psychiatric Technicians; Case No. 06-0150-L, the Board issued a citation based upon violations of Business and Professions Code sections 4521, 2576.6, and 2578 for the following three convictions which were substantially related to the practice of Psychiatric Technician:

a. On or about April 18, 2005, in the Superior Court of California, County of Tulare, in the case entitled, *People of the State of California v. David Fields* (Super. Ct Tulare County, 2005, Case No. PCM141507), Respondent was convicted by the court on his plea of nolo contendere of violating Penal Code section 242 (Battery), a misdemeanor.

b. On or about April 4, 2005, in the Superior Court of California, County of Tulare, in the case entitled, *People of the State of California v. David Fields* (Super. Ct Tulare County, 2005, Case No. PCM142993), Respondent was convicted by the court on his plea of guilty of violating Vehicle Code section 23152, subdivision (b) (Driving a Vehicle While Having a Blood Alcohol Content of .08% or Higher) with Vehicle Code section 23578 (Alcohol Concentration), a misdemeanor.

c. On or about August 18, 1999, in the Superior Court of California, County of Tulare, in the case entitled, *People of the State of California v. David Reed Fields* (Super. Ct Tulare County, 1999, Case No. PCR096822-A), Respondent was convicted by the court on his plea of no contest of violating Vehicle Code section 23152, subdivision (b) (Driving a Vehicle With .08%/.20% Blood Alcohol Content), a misdemeanor.

Respondent was fined \$750 dollars which he paid and the matter became final.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
4 Technicians issue a decision:

5 A. Revoking or suspending Psychiatric Technician License Number
6 PT 29204 issued to David Reed Fields;

7 B. Ordering David Reed Fields to pay the Board the reasonable costs of the
8 investigation and enforcement of this case pursuant to Code section 125.3; and,

9 C. Taking such other and further action as deemed necessary and proper.

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11 DATED: December 16, 2008

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13 
14 TERESA BELLO-JONES, J.D., M.S.N., R.N.

15 Executive Officer
16 Bureau of Vocational Nursing and Psychiatric Technicians
17 Department of Consumer Affairs
18 State of California
19 Complainant
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